

Text of Proposed Emergency Regulations

In the following text, underlining indicates adopted or amended text; and strikethrough indicates deleted or relocated text.

Section 3044 is amended to read:

Section 3044. Inmate Work and Training Incentive Groups.

Subsections (a) through (c) are unchanged.

(d) Privilege Group A:

Subsection (d)(1) through (d)(3)(F) is unchanged.

Subsection (d)(3)(G) through (H) is amended to read:

(G) The receipt of four ~~special~~ personal property packages, 30 pounds maximum weight each, per year, exclusive of special ~~canteen~~ purchases.

(H) ~~Special canteen purchases as provided for by local institution/facility.~~ Condemned Grade A inmates shall be afforded the same property privileges as inmates assigned to Privilege Group A.

(e) Privilege Group B:

Subsection (e)(1) through (e)(3)(F) is unchanged.

Subsection (e)(3)(G) through (H) is amended to read:

(G) The receipt of four ~~special~~ personal property packages, 30 pounds maximum weight each, per year, exclusive of special ~~canteen~~ purchases.

~~(H) Special canteen purchases as provided for by local institution/facility.~~

(f) Privilege Group C:

Subsection (f)(1) through (f)(3)(E) is unchanged.

Subsection (f)(3)(F) through (G) is amended to read:

(F) No ~~special~~ personal property packages.

~~(G) No special canteen purchases.~~

(g) Privilege Group D:

Subsection (g)(1) through (g)(4)(E) is unchanged.

Subsection (g)(4)(F) through (G) is amended to read:

(F) May be permitted to ~~receive~~ acquire one ~~special~~ personal property package, not to exceed 30 pounds maximum weight, per year, exclusive of special purchases. Eligibility to acquire a personal property package commences one year after date of Privilege Group D assignment.

(G) ~~One special canteen purchase of one television or one radio or one radio/TV combination unit.~~ Condemned Grade B inmates shall be afforded the same property privileges as inmates assigned to Privilege Group D.

(h) Privilege Group U:

Subsection (h)(1) through (h)(3)(E) is unchanged.

Subsection (h)(3)(F) through (G) is amended to read:

~~(F) No special canteen purchases.~~

~~(F) No special~~ (G) No special personal property packages.

Subsection (i) is unchanged.

NOTE: Authority cited: Sections 2700, 2701 and 5058, Penal Code. Reference: Sections 2932, 2933, 2935, 5005, 5054 and 5068, Penal Code; *Thompson v. Enomoto*, 915 F.2d 1383(9th Cir. 1990), and *In re Monigold*, 205 Cal.App.3d 1224 (1988).

Section 3092 is relocated to Subchapter 2, Article 9, Section 3190 and renumbered to subsections (e) and (f), respectively.

~~Section 3092. Special Inmate Canteen Purchases.~~

~~(a) Facilities shall establish procedures for inmate purchase of approved personal property items not stocked in the canteen. The canteen manager or designated staff shall ensure approved catalogs and order forms are available to inmates in qualifying privilege groups.~~

~~(b) The amount charged an inmate for a special purchase shall include normal taxes and a 10% service charge based upon the purchase price. Service charges shall be deposited in the inmate welfare fund. Exception: The 10% service charge shall not be added to purchases of medical appliances, correspondence courses, nonfiction books, and legal materials.~~

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5006 and 5054, Penal Code.~~

Section 3138 is amended to read.

Section 3138. General Mail Regulations.

Subsections (a) through (c) are unchanged.

Subsection (d)(1) is amended to read:

(d) Packages.

(1) Facilities will ~~establish and~~ make available to all inmates procedures for the receipt of packages from their correspondents via departmentally-approved vendors in accordance with limits set for their assigned inmate work/training incentive group. ~~Such procedures may require an inmate to obtain prior approval to receive a package. Facilities may refuse to accept packages addressed to an inmate if prior approval has not been obtained, or if a package is received at a facility, the~~ A facility may refuse to deliver the package if to the inmate is not qualified to receive the package, and dispose of the package as provided in subsection 3147(a)(6~~5~~) without the need to hold the package pending appeal as provided in subsection 3147(a)(5)(B). If the package is in excess of the 30-pound limit, or is damaged, the package shall be returned to the vendor at the vendor's expense.

Subsections (d)(2) through (g) are unchanged.

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2600, 2601, 4570, and 5054 Penal Code; *Procunier v. Martinez*, 416 U.S. 396 (1974); and *Bell v. Wolffish*, 99 S. Ct. 1861 (1979).

Section 3190 is amended to read:

Section 3190. General Policy.

Subsection (a) is amended to read:

(a) ~~Wardens and superintendents shall establish a list of personal property items and the maximum amount of such items an inmate may have in his or her possession within the~~

~~institution. Institutions shall permit inmates~~ Inmates shall be permitted to possess in their ~~living quarters/living area, in addition to state-issued property items issued to an inmate, and authorized~~ personal property items based upon privileges in section 3044 and subject to disciplinary provisions in sections 3314 and 3315 ~~that present no threat to institution security or the safety of persons.~~

Subsection (b) is unchanged.

Subsection (c) is amended to read:

~~(c) All institutions housing male inmates shall provide all other institutions and the director with no less than two copies of the institution's current list of allowable inmate personal property. Upon an inmate's transfer between institutions of the department, the sending institution shall administer inventory the inmate's property and, pursuant to section 3191, ensure the proper disposition, of property not allowed at the receiving institution as a result of privilege group changes.~~

New subsection (d) is adopted to read:

(d) Inmates may acquire authorized personal property packages based upon their privilege group, pursuant to section 3044. Personal property packages may be ordered by inmates or their correspondents via a departmentally-approved vendor. All packages shall be shipped to the inmate's institution/facility by the departmentally-approved vendor in a sealed container.

New subsection (e) is relocated from Section 3092(a) and is renumbered and amended to read:

~~Section 3092. Special Inmate Canteen Purchases.~~

~~(ea) Facilities~~ Inmates shall be allowed ~~establish procedures for inmate special purchases of approved authorized personal property items from departmentally-approved vendors not stocked in the canteen. The canteen manager~~ institution head or designated staff shall ensure approved vendor catalogs and order forms are available to inmates in qualifying privilege groups. Special purchases shall only include the following:

(1) Health Care Appliances, subject to prescription by a physician and approval by designated custody staff, and shall be excluded from the six cubic foot limitation.

(2) Correspondence Courses, subject to approval by supervisor of correctional education programs and designated custody staff.

(3) Religious Items, subject to approval by institutional chaplain and designated custody staff.

(4) Handicraft Material, pursuant to Penal Code 2601, and subject to approval by handicraft manager and designated custody staff.

(5) Legal Material, including legal reference material, books, and legal pads not available in the institution canteen.

(6) Entertainment Appliances and Musical Instruments, subject to qualifying privilege group.

(7) Purchase of books and subscriptions to periodicals, subject to section 3006.

New subsection (f) is relocated from Section 3092(b) and renumbered and amended to read:

~~(f)~~ The amount charged an inmate for a special purchase or personal property package shall include normal taxes and a 10% service charge based upon the purchase price. Service charges shall be deposited in the inmate welfare fund. EXCEPTION: The 10% service charge shall not be added to purchases of ~~medical~~ health care appliances, correspondence courses, nonfiction books, religious items, and legal materials.

~~NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 5006 and 5054, Penal Code.~~

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 2601(c)(2), 5006 and 5054, Penal Code; and *in re Alcala*, Marin County Superior Court, No. 117925, December 20, 1984.